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INTERNATIONAL MILITARY TRIBUNAL  
FOR THE FAR EAST

- 1 -

THE UNITED STATES OF AMERICA, et al

- VS -

ARAKI, Sadao, et al

- Defendants -

PLEA TO THE JURISDICTION AND MOTION TO DISMISS

AND NOW come the undersigned, Counsel for the defendants, Seishiro ITAGAKI, Heitaro KIMURA, Akira MUTO and Kenryo SATO, and deny the jurisdiction of this Tribunal and move that the indictment and all the counts thereof be dismissed on the grounds that:

A. The defendant MUTO as a member of the Armed Forces of Japan surrendered to the Armed Forces of the United States of America and the defendants ITAGAKI, KIMURA and SATO as members of the Armed Forces of Japan surrendered to the Armed Forces of the British Commonwealth of Nations, and that upon such surrenders each of the said defendants became a prisoner of war and remains in that status.

B. That no notice of this proceeding has been given the protecting power of Japan as required by Article 60 of the Geneva Convention.

C. That this Tribunal is not a court authorized to impose sentence upon any of them as provided in Article 63 of the Geneva Convention.

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D. That the procedure according to which they will be tried by this Tribunal under its Charter and under its Rules of Procedure is not the same procedure as in the case of persons belonging to the armed forces of the power to which each of them respectively surrendered or by which they are now being detained, as required by Article 63 of the Geneva Convention.

*Yamada Kenzo*

Counsel for Seishiro ITAGAKI

*Ikisaburo Shobara*

Counsel for Heitaro KIMURA

*George A. Turness, Captain*

*Seichi Cerameto*  
Counsel for Akira MUTO

*Ichiro Kiyose*

Counsel for Kenryo SATO



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INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

D. That the procedure according to which they will be tried by this Tribunal under its Charter and under its Rules of Procedure is not the same procedure as in the case of persons belonging to the armed forces of the power to which each of them respectively surrendered or by which they are now being detained, as required by Article 63 of the Geneva Convention.

Hamada Kenzo  
Counsel for Seishiro ITAGAKI

Ichisaburo Shidara  
Counsel for Heitaro KIMURA

George A. Turness, Capt. A.  
Seichi Crampton  
Counsel for Akira MUTO

Ichiro Kiyose  
Counsel for Kenryo SATO